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6	UNITED STATES DISTRICT COURT	
7	DISTRICT OF NEVADA	
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9	UNITED STATES OF AMERICA,	
10	Plaintiff,	3:12-CR-0058-LRH-WGC
11	v.) ODDED
12	F. HARVEY WHITTEMORE	ORDER O
13	Defendant.	
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15	On March 21, 2012, this court heard oral argument on defendant F. Harvey Whittemore's	
16	("Whittemore") motion to suppress. Doc. #31.1 The court has reviewed the documents and	
17	pleadings on file in this matter, has considered the arguments of counsel at the hearing, and finds	
18	that an evidentiary hearing is warranted.	
19	In particular, the court is concerned with the factual basis for statements made by non-part	
20	attorney James J. Pisanelli to the Eighth Judicial District Court in July, September, and	
21	October 2012, that relate to his firm's resistance to turning over eighty-one (81) boxes of property	
22	to counsel for Whittemore. It is not clear from the record before the court when, who and what wa	
23	said to attorney Pisanelli, or other representatives of his firm, or to what such comments may have	
24	been directed or based. The court is also concerned with establishing the factual history of the	

¹ Refers to the court's docket number.

sequence of events in March 2012, that lead to the second Grand Jury subpoena. The court clarifies its order to limit the evidentiary hearing to the following witnesses: attorney James J. Pisanelli and, if necessary, Special Agent April French or other FBI agent identified by attorney Pisanelli. The court limits the evidentiary hearing to the time frame of March 2012 and the issues identified above.

Further, it is the court's view that the burden is on the government to call the identified witnesses and present testimony directed at the court's concerns.

IT IS THEREFORE ORDERED that an evidentiary hearing shall be set in accordance with this order. The parties shall work together with the court clerk to find an available time for the evidentiary hearing.

IT IS SO ORDERED.

DATED this 22nd day of March, 2013.

LARRY R. HICKS UNITED STATES DISTRICT JUDGE

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